

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH**

FILED  
2024 SEP 9  
CLERK  
U.S. DISTRICT COURT

Angela Rohr, Louis Rohr, Gian Martinez-Ferrate, Andre Martinez-Ferrate and Marylin Westenskow )  
Plaintiffs, )  
*v.* )  
STATE OF UTAH, OFFICE OF THE LIEUTENANT GOVERNOR; )  
Diedre Henderson, in her official capacity as Lt. Governor, Shelly Jackson, in her official capacity as Acting Deputy Director of Elections, Ryan Cowley, in his official capacity as Acting Director of Elections )  
  
*Defendants.* )

## **Emergency Motion For Temporary Restraining Order and Preliminary Injunction**

Plaintiffs Pro Se Angela Rohr, Louis Rohr, Gian Martinez-Ferrate, Andre Martinez-Ferrate, and Marylin Westenskow respectfully request entry of a temporary restraining order and preliminary injunction against Defendants, to enjoin them from removing Plaintiffs and one (1) other independent presidential elector candidates (hereinafter collectively referred to as "Elector Candidates") from the Utah Ballot for the November 5, 2024 General Election because the Defendants do not have statutorily created subject matter or personal jurisdiction to do so. All Elector Candidates are fully qualified and eligible pursuant to Utah Election Code ("Election Code") to be independent presidential elector candidates;

and, met and exceeded every requirement demanded of them by the Utah Election Code (“Election Code”) in completing their Certificate of Nomination (“Nomination Papers”) to become bona fide Elector Candidates. Plaintiffs are being harmed because they are not parties to the Defendants’ review of their Nomination Papers and the Defendants’ subsequent rulings and defective conclusions resulting in Elector Candidates’ being removed from the Utah ballot as candidates for the Office of Elector. Shortly, election authorities will order the printing of paper ballots, and commence mailing overseas and military ballots in September. The Plaintiffs had no recourse through Utah Office of Lieutenant Governor (“UOLG”) to redress the harm caused to them by the UOLG, given the UOLG violated their own due process rules since Plaintiffs and Elector Candidates were not parties to the underlying action taken by Defendants against their Nomination Papers submitted as Elector Candidates for the November 5, 2024 general election.

### Introduction

Plaintiffs filed a verified complaint respectfully requesting entry of judgment and other relief pursuant to 42 U.S.C. § 1983 against Defendants STATE OF UTAH, OFFICE OF THE LIEUTENANT GOVERNOR (“UOLG”) Lt. Governor Diedre Henderson in her official capacity, and the Deputy Director of Elections Shelly Jackson, in her official capacity at the UOLG, and its Director of Elections Ryan Cowley in his official capacity at the UOLG and in support state as follows.

Plaintiffs Pro Se are Utah voters, Elector Candidates, petition signers, and circulators for the Elector Candidates. Plaintiffs have exercised their First Amendment right to associate and nominate candidates of their choice to be able

to vote for their candidates at the November 5, 2024 general election. Plaintiffs seek to preserve their First and Fourteenth Amendment rights which are being denied by the Defendants. Plaintiffs respectfully request that this Honorable Court enter a temporary restraining order and preliminary injunction restraining order pursuant to Federal Rules of Civil Procedure, Rule 65(a) and (b), enjoining Defendants from printing ballots without including the Elector Candidates and enter a decision regarding Elector Candidates' Nomination Papers, which have never been in dispute.

Plaintiffs seek relief because Defendants are proceeding to remove their names from the ballot (a) without personal jurisdiction over the Plaintiffs and the Elector Candidates; (b) without subject matter jurisdiction over the Nomination Papers filed by Plaintiffs and the Elector Candidates; and, (c) allowing UOLG to proceed against the Elector Candidates' pledged candidates for President and Vice President of the United States without subject matter jurisdiction over pledged candidates. The proceedings attacking Plaintiffs and Elector Candidates' Nomination Petitions were undertaken in derogation of Plaintiffs' First Amendment ballot access rights, and their Fourteenth Amendment rights to due process and equal protection.

**A. Relevant facts from Plaintiffs' Verified Complaint**

On February 29, 2024 Plaintiffs and the Elector Candidates jointly submitted over 1,451 signatures on Nomination Papers, of which 1,128 were certified and accepted by the UOLG, to qualify the 6 Elector Candidates as Utah's independent presidential elector candidates at the November 5, 2024 general election in Utah for the Office of Elector, as follows:

Presidential Electors		
Name	Address	Phone Number
Alejandro M. Espejel	99 S. Padre Drive Iron, UT 84720	435-600-1100
Marilyn Ruth Westenskow	2035 Atkin Ave Salt Lake, UT 84109	801-831-8228
Gian Carlo Martinez-Ferrate	1314 East Maple Park Ct. Draper, UT 84020	801-696-9789
Angela Brooks Rohr	3030 Silver Reef Drive Leeds, UT 84746	435-879-6900
Andre Xavier Martinez-Ferrate	1314 East Maple Park Ct. Draper, UT 84020	801-577-0909
Louis Ralph Rohr	3030 Silver Reef Drive Leeds, UT 84746	435-773-0271
Jordan Lott	572 S. 600 East #A107 American Fork, UT 84003	801-369-2619

The Plaintiffs and Elector Candidates gathered signatures from Utah voters for ballot placement for the US Constitutionally defined office of “Elector of President and Vice President of the United States.” US Const. Art. II, Sec. 1.

The Utah Election Code requires the submission of at least 1,000 signatures in the aggregate from Utah voters. *Utah Stat. § 20A-9-502 (5)(a)A*.

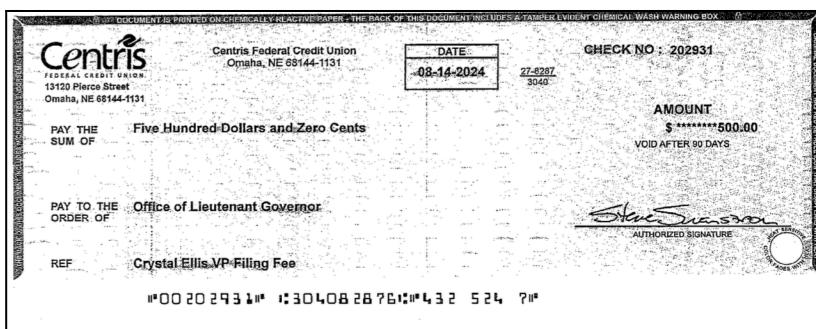
at least 1,000 registered voters residing within the state when the nomination is for an office to be filled by the voters of the entire state;

On June 18, 2024, Plaintiffs and Elector Candidates fulfilled all obligations and requirements pursuant to the Utah Election Code and were officially placed on the ballot to be Presidential Elector Candidates in the State of Utah under the banner of their Pledged Candidate “Shiva Ayyadurai”:

vote.utah.gov/2024-candidate-filings/			
JOHN "FRUGAL" DOUGALL	US House 3	Republican	Primary
JR BIRD	US House 3	Republican	Primary
STEWART PEAY	US House 3	Republican	Primary
MIKE KENNEDY	US House 3	Republican	Primary
CASE LAWRENCE	US House 3	Republican	Primary
CLAYTON B. HUNSAKER	US House 3	Republican	Withdrew
KATRINA FALICK-WANG	US House 4	Democratic	Election Candidate
VAUGHN R COOK	US House 4	United Utah	Election Candidate
M. EVAN BULLARD	US House 4	Unaffiliated	Election Candidate
BURGESS OWENS	US House 4	Republican	Election Candidate
JONATHAN LOPEZ	US House 4	Democratic	Out in Convention
EVAN BULLARD	US House 4	Unaffiliated	Withdrew
CLAUDIA DE LA CRUZ	U.S. President	Unaffiliated	Election Candidate
CORNEL RONALD WEST	U.S. President	Unaffiliated	Election Candidate
SHIVA AYYADURA	U.S. President	Unaffiliated	Election Candidate
JOSEPH R BIDEN JR	U.S. President	Democratic	Election Candidate
LUCIFER "JUSTIN CASE" EVERYLOVE	U.S. President	Unaffiliated	Election Candidate
ROBERT F. KENNEDY JR.	U.S. President	Unaffiliated	Election Candidate
MARIANNE DEBORAH WILLIAMSON	U.S. President	Democratic	Out in Primary

Pledged independent presidential elector candidates Dr. Shiva Ayyadurai is a resident and voter in the State of Massachusetts, and pledged independent Vice-Presidential candidate, Crystal Ellis is a resident and voter in the State of Nebraska (together “Pledged Candidates”).

On August 14, 2024, upon Plaintiffs and Elector Candidates’ request, pledged candidate Crystal Ellis submitted and filed a declaration of candidacy and paid a filing fee of \$500.00 to Defendant Shelly Jackson.



On August 19, 2024, Defendant Shelly Jackson emailed Pledged Candidate for Vice-President Crystal Ellis rejecting her Declaration of Candidacy and filing

fee, while attaching documents, that were never sent to Plaintiffs and Elector Candidates, predating August 19, 2024 asserting that on July 17, 2024, that they were removed from the ballot:

Rejection of VP candidacy notice Inbox X

 Shelly Jackson  
to me ▾

Mon, Aug 19, 6:35PM (8 days ago) star smiley back arrow more

Crystal,  
Thank you for your declaration of candidacy notice. Unfortunately, due to circumstances outlined in the attached letter, we are unable to accept this. This letter - and the return of your filing fee - is being sent by US Postal Service.

Thank you and best of luck.

 **SHELLY JACKSON, CERA | DEPUTY ELECTIONS DIRECTOR**  
OFFICE OF LIEUTENANT GOVERNOR  
DEIDRE M. HENDERSON  
[VOTE.UTAH.GOV](http://VOTE.UTAH.GOV)  
801-597-6839 (C)

One attachment • Scanned by Gmail ⓘ



 Office of the Lieutenant Governor

State of Utah  
SPENCER J. COX  
*Governor*  
DEIDRE M. HENDERSON  
*Lieutenant Governor*

Crystal Ellis  
11909 N 58th Street  
Omaha NE 68152  
tth.movement@gmail.com

August 16, 2024

Dear Crystal  
We are in receipt of your Certificate of Nomination for Vice President dated August 12, 2024. Despite your filing being received timely by our office, this filing is being denied on the basis of the rejection of the candidacy of Shiva Ayyadurai for presidency. This decision was communicated to your campaign in a letter dated July 17, 2024. A copy of this letter is attached.

The original Certificate of Nomination for Vice President is being returned with this letter, along with your filing fee - check #202931.

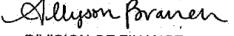
Thank you for your cooperation.

Regards,

  
Shelly Jackson  
Deputy Director of Elections

Cc:  
Shiva Ayyadurai  
Shiva 4 President  
11909 N 58th Street  
Omaha NE 68152

 <p>Office of the Lieutenant Governor</p> <p><b>State of Utah</b></p> <p>SPENCER J. COX <i>Governor</i></p> <p>DEIDRE M. HENDERSON <i>Lieutenant Governor</i></p> <p>Shiva Ayyadurai Shiva 4 President 11909 N 58th Street Omaha NE 68152 Via email <a href="mailto:tfn.movement@gmail.com">tfn.movement@gmail.com</a></p> <p><b>Jul 17, 2024</b></p> <p><b>Re: Declaration of Candidacy</b></p> <p>Dear Dr. Shiva:</p> <p>After further review of your declaration of candidacy, our past communications and correspondence, and after further research of the law (including the cases that you have cited in your correspondence), our office has determined that we cannot accept your declaration of candidacy. Please find enclosed a check in the amount of \$500.00 representing the return of the filing fee your campaign paid to this Office.</p> <p>This decision is based on the express holdings of the United States Supreme Court which has defined the constitutional "natural born citizen" qualification for the office of president as a person born in the United States or born to parents who are U.S. citizens.</p> <p>As you noted on your filing form, you were not born in the United States, and you became a citizen through the naturalization process. Unfortunately, the United States constitution requires candidates for office of president to have been "natural born citizens." And, as you know, the Office cannot certify a candidate for the ballot if the person cannot state that they meet the qualifications for office. <i>See, Hassan v. Colorado</i>, 495 Fed.Appx. 947, 948 (10<sup>th</sup> Cir. 2012) (affirming Colorado Sect'y of State's declining a statement of candidacy based on applicant's not being a "natural born citizen").</p> <p>In light of this federal court precedent and your express admission that you were not born in the United States, our office must respectfully decline your declaration of candidacy and hereby return your filing fee.</p> <p>Regards,</p> <p><i>Shelly L Jackson</i> Shelly Jackson Deputy Director of Elections</p>
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THIS IS WATERMARKED PAPER - HOLD TO LIGHT TO VERIFY - DO NOT ACCEPT WITHOUT NOTING WATERMARK - DOCUMENT HAS COLORED BACKGROUND ON WHITE PAPER.			
<b>STATE OF UTAH</b> <small>DIVISION OF FINANCE - PO BOX 141031 SALT LAKE CITY, UTAH 84114 STATE VENDORS</small>		 MARLO M. OAKS <small>UTAH STATE TREASURER</small>	Warrant Number <b>F 14825798</b>
		<small>PAYABLE TO UTAH STATE TREASURER SALT LAKE CITY, UTAH 84114</small> 31-269 1240	
<b>PAY Five Hundred And 00/100 Dollars</b>		<small>VOID 180 DAYS FROM DATE</small> 07-18-2024	<small>PAY THIS AMOUNT</small> <b>\$500.00**</b>
<b>TO THE ORDER OF:</b> <small>SHIVA AYYADURAI 11909 N 58TH STREET OMAHA NE 68152</small>			
 <small>DIVISION OF FINANCE</small>			
<small>100 148 25798 1 12400 28901 1531003677361</small>			
<small>DETACH BEFORE CASHING STATE OF UTAH, Division of Finance PO Box 141031, Salt Lake City UT 84114 (801) 957-7760</small>			
<small>00000T</small>	<small>Dept Voucher #</small> 060 2430000259	<small>Invoice # / Description</small> 38571624 / CANDIDATE FILING REIMBURSEMENT	<small>Amount</small> 500.00

However, by operation of the U.S. Constitution and the Utah Election Code, the offices of President and Vice President of the United States have never been offices filled (or voted for) by Utah voters at the general election. See U.S. Constitution, Art. II. As the Utah Election Code *Utah Stat. Certificate of election § 20A-13-302 (1)(a)* states (with emphasis added):

The lieutenant governor shall transmit certificates of election to each of the electors selected under Section 20A-13-301:

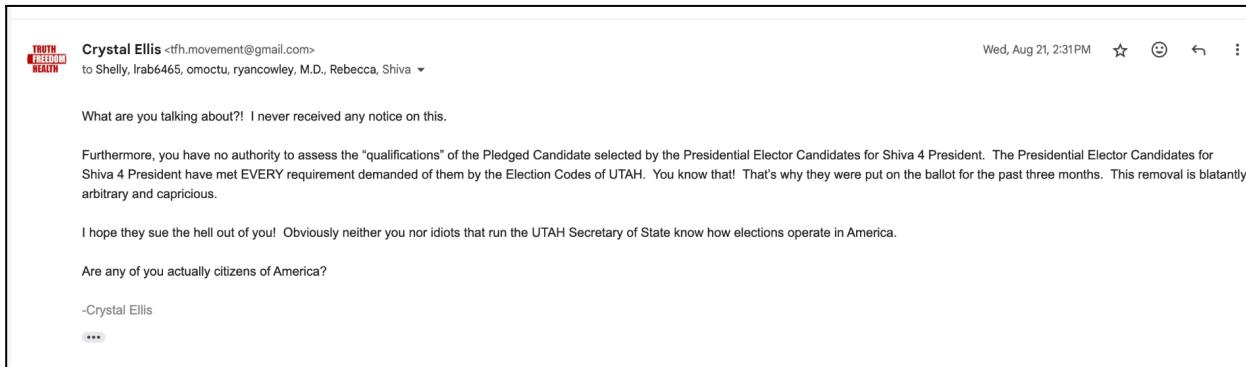
*Section 20A-13-301 (2)(b):*

(b) if the candidates receiving the highest number of votes are unaffiliated candidates or write-in candidates, the presidential electors selected for those candidates.

The State of Utah, Office of Lieutenant Governor, and Shelly Jackson's email and non-certified letter predicated July 17, 2024 did not name Plaintiffs or any of the Elector Candidates as the candidates in the notification, rejection and removal; and, the email and non-certified rejection letter and removal does not include any factual allegations directed at Plaintiffs or 6 Elector Candidates nor does it seek a decision of the Office of Lieutenant Governor directed at the 6 Elector Candidates' ballot eligibility.

The State of Utah, Office of Lieutenant Governor, and Shelly Jackson did not seek the removal of the 6 Elector Candidates or otherwise challenge the ballot eligibility of the 6 Elector Candidates at the November 5, 2024 general election ballot for the federal office of "Electors for President and Vice President of the United States." US Const., Art. 2 Sect. 1. *Utah Stat. § 20A-13-301*

On August 21, 2024, Pledged Candidate for Vice President Crystal Ellis disputed the subject matter jurisdiction of the Electoral Board and disputed personal jurisdiction over the 6 Elector Candidates who were not named in any objector's petition or served with a copy of being removed from the ballot:



Utah voters do not vote for or elect the offices of President or Vice President of the United States at the Utah general election on November 5, 2024 by application of the US Constitution, Art. II, Sec. 1 and the Utah Election Code *Utah Stat. § 20A-13-301*. Utah voters vote for, and select their state Elector candidates.

There was no objector petition filed nor did any such objector petition name Plaintiffs or any of the other Elector Candidates as respondents in the objector's petition, and neither were Plaintiffs or any of the other Elector Candidates presented with any such objector petition that included any factual allegations directed at Plaintiffs or the other Elector Candidates nor seek a decision of the UOLG directed at the 6 Electors Candidates' ballot eligibility.

There exists no such objector petition seeking the removal of the 6 Elector Candidates from the Utah ballot, or otherwise challenge the ballot eligibility of the 6 Elector Candidates at the November 5, 2024 general election ballot for the federal

office of “Electors for President and Vice President of the United States.” US Const., Art. 2 Sect. 1 and the Utah Election Code.

Pledged Candidates disputed the subject matter jurisdiction of the Electoral Board and disputed personal jurisdiction over the 6 Elector Candidates who were not named or served with a copy of any objector’s petition or notification of removal from the ballot.

The Pledged Candidate for Vice President Crystal Ellis upon hearing of the removal of Plaintiffs and Elector Candidates from the ballot, as aforementioned, on August 21, 2024, notified Shelly Jackson via email that UOLG lacks subject matter and personal jurisdiction over the Nomination Papers filed by the 6 Elector Candidates, who are the actual candidates that Utah voters will be voting for on November 5, 2024.

The UOLG denied Pledged Candidate’s concerns that the Defendants do not have statutorily created subject matter or personal jurisdiction to remove Elector Candidates from the ballot.

**B. Standard for preliminary injunction.**

Plaintiffs are entitled to a preliminary injunction if “(1) a likelihood of success on the merits; (2) a likelihood that the movant will suffer irreparable harm in the absence of preliminary relief; (3) that the balance of equities tips in the movant’s favor; and (4) that the injunction is in the public interest.” *RoDa Drilling Co. v. Siegal*, 552 F.3d 1203, 1208 (10th Cir.2009). Because a preliminary injunction is an extraordinary remedy, the “right to relief must be clear and unequivocal.” *SCFC ILC, Inc. v. Visa USA, Inc.*, 936 F.2d 1096, 1098 (10th Cir.1991).

Plaintiffs have met the requirements for injunctive relief, as they have no adequate remedy at law for denial of their First Amendment right to associate and nominate the candidates of their choice, and their right to vote for their candidates at the general election. There is no cost or burden involved to the Defendants, but rather, State funds would be saved by curtailing a proceeding that is not otherwise authorized by the Election Code. The balancing of harms also weighs heavily in favor of Plaintiffs, and based upon the provisions of the Election Code, they are likely to prevail upon the merits.

**C. Injunctive relief requested.**

Plaintiffs respectfully request that this Honorable Court enjoin the Defendants from removing the Plaintiffs and the 6 other Elector Candidates from the Utah Ballot for the November 5, 2024 General Election, for the duration of this litigation, and for all other relief this Court deems just.

Plaintiff Pro Se Rohr certifies that Defendants have received the Plaintiffs' Verified Complaint and this Motion. Plaintiffs are also serving each Defendant with summons and complaint on an expedited basis via email.

Wherefore, Plaintiffs, for the foregoing reasons respectfully request entry of a preliminary injunction enjoining Defendants from proceeding with removal of Plaintiffs and Elector Candidates based upon the fact that UOLG removed Plaintiffs and Elector Candidates without any due process including and not limited to either receiving any objector petition to Plaintiffs and Elector Candidates Nomination Papers or notifying Plaintiffs and Elector Candidates of any such objection, and any other relief that is just and appropriate and/or agreed to between the parties, to protect Plaintiffs' First and Fourteenth Amendment rights.

Respectfully submitted:

By: /s/Angela Rohr  
Plaintiff Pro Se

By: /s/ Louis Rohr  
Plaintiff Pro Se

By: /s/ Gian Martinez-Ferrate  
Plaintiff Pro Se

By: /s/ Andre Martinez-Ferrate  
Plaintiff Pro Se

By: /s/ Marilyn Westenskow  
Plaintiff Pro Se

Dated: September 6, 2024

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Marilyn Westenskow  
2035 Atkin Ave  
Salt Lake, UT 84109  
Ph: 801-831-8228  
Em: [omoctu@gmail.com](mailto:omoctu@gmail.com)

**Certificate of Service**

We, the Plaintiffs Pro Se, certify that on September 5, 2024 we electronically filed this document with the Clerk of the Court via email, and have separately served a copy of this filing upon the Defendants shown below via email delivery to Counsel of Defendants and Defendants as follows:

**Attorney General Sean D Reyes** c/o: Sean D. Reyes  
via Email: [uag@agutah.gov](mailto:uag@agutah.gov)

**Office of Lieutenant Governor Diedre Henderson** c/o: Sean D. Reyes  
via Email: [uag@agutah.gov](mailto:uag@agutah.gov)

**Utah Deputy Director of Elections Shelly Jackson** c/o: Shelly Jackson  
via Email: [shellyjackson@utah.gov](mailto:shellyjackson@utah.gov)

**Utah Director of Elections Ryan Cowley** c/o: Ryan Cowley via Email:  
[ryancowley@utah.gov](mailto:ryancowley@utah.gov)

/s/ Angela Rohr  
Plaintiff Pro Se

/s/ Louis Rohr  
Plaintiff Pro Se

/s/ Gian Martinez- Ferrate  
Plaintiff Pro Se

/s/ Andre Martinez-Ferrate  
Plaintiff Pro Se

/s/ Marilyn Westenskow  
Plaintiff Pro Se